



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

201451063

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

SEP 24 2014

Uniform Issue List: 408.03-00

XXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX

T:EP:RA:TI

Legend:

Taxpayer A	=	XXXXXXXXXXXXXXXXXX
IRA B	=	XXXXXXXXXXXXXXXXXX
Bank C	=	XXXXXXXXXXXXXXXXXX
IRA D	=	XXXXXXXXXXXXXXXXXX
Bank E	=	XXXXXXXXXXXXXXXXXX
Amount 1	=	XXXXXXXXXXXXXXXXXX
Amount 2	=	XXXXXXXXXXXXXXXXXX
Amount 3	=	XXXXXXXXXXXXXXXXXX

Dear XXXXXXXXXXXXXXX:

This is in response to your request dated April 8, 2014, as supplemented by correspondence dated May 20, 2014, in which your authorized representatives request, on your behalf, a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code ("Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested:

Taxpayer A represents that she received a complete distribution from IRA B totaling Amount 1. Taxpayer A asserts that her failure to accomplish a rollover within the 60-

day period prescribed by section 408(d)(3) was due to her medical condition which impaired her ability to manage her financial affairs.

Taxpayer A maintained IRA B, an individual retirement account under section 408 of the Code, with Bank C. Taxpayer A asserts that she intended for her assets to remain in a tax deferred environment. Taxpayer A represents that the distribution was requested because the funds in IRA B were in an investment that was due to mature, and she was advised that she would get a better return on her investment if she transferred her funds to an IRA maintained at Bank E.

On November 30, 2011, Taxpayer A received a distribution totaling Amount 1 from IRA B, with Amount 3 being the portion of Amount 1 that represents Taxpayer A's required minimum distribution for tax year 2011. During the 60-day rollover period following the distribution of Amount 1, Taxpayer A was hospitalized for a period of time and suffered severe side effects and complications that prevented her from carrying out her financial affairs, including completing a timely rollover of Amount 2, as a partial rollover of the distribution of Amount 1. On February 2, 2012, Taxpayer A transferred Amount 2 into IRA D with Bank E. Taxpayer A represents that Amount 2 has not been used for any other purpose and remains in IRA D.

Taxpayer A has suffered from a number of mental health disorders for several years and has been receiving both treatment and medication. Documentation and medical records have been submitted that show Taxpayer A's state of physical and mental health during the period surrounding the distribution of Amount 1, which condition impaired her ability to manage her financial affairs.

Based on the facts and representations, a ruling has been requested that the Internal Revenue Service (the "Service") waive the 60 day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount 2.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if:

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60<sup>th</sup> day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60<sup>th</sup> day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with her assertion that Taxpayer A's failure to accomplish a timely rollover was caused by her medical condition which impaired her ability to manage her financial affairs.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 2 from IRA B on November 30, 2011, and contribution of Amount 2 into IRA D on February 2, 2012. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution of Amount 2, Amount 2 will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

This ruling does not authorize the rollover of any amounts that are required to be distributed by section 408(a)(6) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter is being sent to your authorized representatives pursuant to a Power of Attorney on file in this office.

If you wish to inquire about this ruling, please contact XXXXXXXXXX (ID XXXXXXXXX) at (XXX) XXX-XXXX. Please address all correspondence to SE:T:EP:RA:T1.

Sincerely,

*Carlton A. Watkins*

Carlton A. Watkins, Manager  
Employee Plans Technical Group 1

Enclosures:

Deleted copy of ruling letter  
Notice of Intention to Disclose